REMARKS

Claims 11-25 are pending in the present application. Claims 11, 12, 16, 19, and 22 are amended. Claims 1-10 and 26-52 are withdrawn pursuant to the election described below. Reconsideration of the claims is respectfully requested. Support for the amendments to claims 11, 12, 16, 19, and 22 can be found in the claims as originally submitted. No new matter is added and the scope of these claims has not been changed.

I. Election/Restriction Requirement

The examiner requires an election between groups of claims as described on pages 2 through 5 of the office action of June 23, 2005. On June 8, 2005, a provisional election of group II, claims 11-25, was made. Applicants hereby affirm the election of group II, claims 11-25, without traverse. The remaining claims are considered withdrawn.

II. Objection to Claim 22

The examiner objected to claim 22 because of the informalities described on page 6 of the office action of June 23, 2005. Applicants have amended claim 22 accordingly, thereby overcoming the objection.

III. 35 U.S.C. § 102, Asserted Anticipation of Claims 11-15 and 20-22

The examiner rejected claims 11-15 and 20-22 under 35 U.S.C. § 102 as anticipated by *Suzuki*, Controlling a Laser to Stop Output in Accordance with Detection of Output Lights Corresponding to Channels, U.S. Patent 6,897,424 (May 24, 2005) (hereinafter "*Suzuki*"). This rejection is respectfully traversed.

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). All limitations of the claimed invention must be considered when determining patentability. *In re Lowry*, 32 F.3d 1579, 1582, 32 U.S.P.Q.2d 1031, 1034 (Fed. Cir. 1994). Anticipation focuses on whether a claim reads on the product or process a prior art reference discloses, not on what the reference broadly teaches. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 U.S.P.Q. 781 (Fed.

Cir. 1983). In this case each and every feature of the presently claimed invention is not identically shown in the cited reference, arranged as they are in the claims.

Claim 11 as amended is as follows:

> 11. A method for distributing optical power to a plurality of optical data devices, the method comprising the steps of:
>
> retrieving a priority signal, said priority signal associated with a priority ranking for said plurality of optical data devices;
>
> determining if said priority signal indicates a change in said priority ranking for said plurality of optical data devices; and
>
> responsive to a determination that the priority signal indicates the change in the priority ranking for the plurality of optical data devices, redistributing said optical power to said plurality of optical data devices.

Suzuki does not anticipate claim 11 because *Suzuki* does not teach the feature of retrieving a priority signal, where the priority signal is associated with a priority ranking for the plurality of optical data devices. In addition, *Suzuki* does not teach the feature of determining if the priority signal indicates a change in the priority ranking for the plurality of optical data devices. Finally, *Suzuki* does not teach the feature of redistributing the optical power to the plurality of optical data devices, responsive to a determination that the priority signal indicates the change in the priority ranking for the plurality of optical data devices.

The examiner asserts otherwise, as provided below:

> *Suzuki* discloses an optical device with all the limitation set forth in the claims, including: a method for distribution optical power to a plurality of optical data devices (i.e. "information processing apparatuses": column 1 lines 19-24), the method comprising the steps of: retrieving a priority signal, said priority signal associated with a priority ranking for the plurality of optical data devices, determining if the priority signal indicates a change in the priority ranking for the plurality of optical data devices; wherein such steps comprising retrieving a plurality of optical power monitor signals (Fig. 1; column 2 line 60- column 3 line 10), said plurality of optical power monitor signals associated with a plurality of power levels of a plurality of power sources (Fig. 1); determining if said plurality of optical power output monitor signals indicates a defect in at least one optical power source of said plurality of optical power sources; and redistributing optical power to said plurality of optical data devices (column 2, lines 4-15);

Office Action of June 23, 2005, pp. 6-7.

However, the examiner's characterization of *Suzuki* is incorrect. *Suzuki* does not teach or suggest any of the features of claim 11 as the examiner asserts. For example, the examiner

asserts that the following portion of *Suzuki* teaches the retrieving, determining, and redistributing steps as claimed:

> FIG. 1 is a block diagram showing a first embodiment of a parallel optical module according to the present invention. A parallel optical module includes an APC (Automatic Power Control) circuit 1, a laser driver 2, a surface-emission laser (VCSEL) 3, and monitoring photodiodes MD1 and MD2. The APC circuit 1 and the monitoring photodiode MD1 form a first detection and control loop (or a first laser safety circuit) of a laser safety circuit, and the APC circuit 1 and the monitoring photodiode MD2 form a second detection and control loop (or a second laser safety circuit) of the laser safety circuit. In this embodiment, it is assumed for the sake of convenience that the parallel optical module generates a 12-channel (or 12-bit) parallel optical output, and that two detection and control loops are provided. However, the number of channels of the parallel optical module is of course not limited to twelve, and the number of detection and control loops is of course not limited to two, and both the number of channels and the number of detection and control loops may be any plural number.

Suzuki, col. 2, l. 60 through col. 3, l. 10.

The above-quoted portion of *Suzuki* teaches an optical module that includes an automatic power control circuit that forms two control loops in conjunction with two monitoring photodiodes. This section of *Suzuki* does not teach a priority ranking as claimed. This section of *Suzuki* does not teach using the priority ranking in the manner claimed. This section of *Suzuki* does not teach the retrieving a priority signal, determining a change in the priority ranking, or redistributing power to optical data devices, as claimed.

Nevertheless, the examiner also refers to the following portion of *Suzuki*:

> *Recently, due to progresses made in optical communication techniques, communication is often made between information processing apparatuses by connecting the information processing apparatuses via an optical fiber cable and transmitting and receiving optical signals via the optical fiber cable.* A laser optical module is used to output a laser beam from a laser light source to the optical fiber cable depending on transmitting information, and is normally provided with a laser safety circuit. The laser safety circuit is provided to control the output, so tat the intensity of the laser beam output from the laser optical module satisfies a laser safety standard.

Suzuki, col. 1, ll. 19-30 (emphasis to show portions cited by the examiner).

This portion of *Suzuki* teaches that the intensity of a laser can be controlled with a laser safety circuit. The safety circuit can control the output of the laser, so that the intensity of the

laser output satisfies a given standard. However, this section of *Suzuki* does not teach retrieving a priority signal where the priority signal is *associated with a priority ranking* for the plurality of optical data devices, as claimed. This section of *Suzuki* does not teach determining if the plurality signal *indicates a change in the priority ranking*, as claimed. This section of *Suzuki* does not teach *redistributing* optical power to the plurality of optical devices *responsive to a determination that the priority signal indicates the change in the priority ranking*, as claimed.

Nevertheless, the examiner also cites the following portion of *Suzuki*:

> *Still another object of the present invention is to provide a parallel optical module comprising a plurality of photodetectors detecting output lights of a plurality of arbitrary channels of a laser light source having a plurality of channels, a plurality of detection and control loops detecting and controlling intensities of output lights of the laser light source based on detection signals from the plurality of photodetectors, and a control circuit stopping output of the laser light source when an intensity of output light detected by at least one of the plurality of detection and control loops does not satisfy a predetermined standard.* According to the parallel optical module of the present invention, it is possible to make a transmission by a plurality of channels, and also satisfy a laser safety standard related to the intensity of the parallel transmission output of the laser beam, using a relatively simple structure.

Suzuki, col. 2, ll. 4-19 (emphasis to show the portions cited by the examiner).

The cited portion of *Suzuki* describes an optical module having a number of photodetectors detecting the light output of a plurality of channels of a laser light source. A plurality of detection and control loops are provided to control the intensity of the light output *based on detection signals* from the photodetectors. A control circuit stops output of a laser light *when an intensity of output light detected does not satisfy a predetermined standard.*

Assuming, arguendo, that the predetermined standard is the claimed priority ranking, then only one priority exists – the predetermined standard. Thus, no priority ranking actually exists in *Suzuki*. Even if a priority ranking exists, no determination is made to change the priority ranking, at least because the safety standard is established by a third-party entity. See col. 1, ll. 41-56. In contrast, in claim 11 the priority signal is associated with a priority ranking for the plurality of optical data devices and a determination is made whether the priority signal indicates a change in the priority ranking. For this reason, this section of *Suzuki* does not teach retrieving a priority signal where the priority signal is *associated with a priority ranking* for the plurality of optical data devices, as claimed. This section of *Suzuki* does not teach determining if the plurality signal

indicates a change in the priority ranking, as claimed. This section of *Suzuki* does not teach *redistributing* optical power to the plurality of optical devices *responsive to a determination that the priority signal indicates the change in the priority ranking*, as claimed.

Nevertheless, the examiner also cites Figure 1 of *Suzuki*, which is as follows:

FIG.1

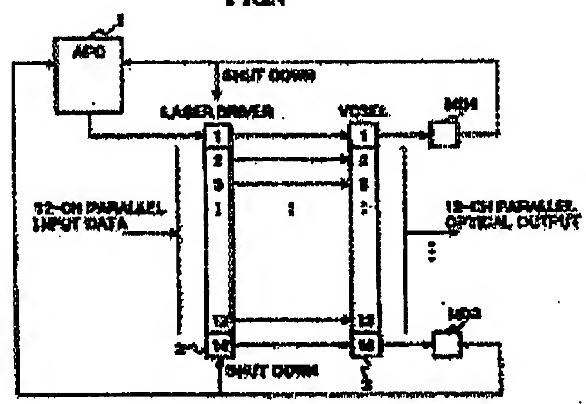

Figure 1 shows the control loop described above. When a safety standard of light output is exceeded, the control circuit shuts down the corresponding laser. However, Figure 1 does not teach or suggest a priority ranking as claimed. For this reason, this section of *Suzuki* does not teach retrieving a priority signal where the priority signal is *associated with a priority ranking* for the plurality of optical data devices, as claimed. This section of *Suzuki* does not teach determining if the plurality signal *indicates a change in the priority ranking*, as claimed. This section of *Suzuki* does not teach *redistributing* optical power to the plurality of optical devices *responsive to a determination that the priority signal indicates the change in the priority ranking*, as claimed.

As shown above, none of the cited portions of *Suzuki* teach any of the features of claim 11. Furthermore, nothing in *Suzuki* teaches or suggests the features of claim 11. Accordingly, *Suzuki* does not anticipate claim 11.

Because claims 12-25 depend from claim 11, the same distinctions between *Suzuki* and claim 11 can be made for these claims. Additionally, claims 12-25 claim other additional combinations of features not taught or suggested by the reference. For example, *Suzuki* does not teach a plurality of optical power monitor signals associated with *a plurality of power levels of a*

plurality of optical power sources, as claimed in claim 12. *Suzuki* does not teach determining if the plurality of optical power output monitor signals indicates a *defect* in at least one optical *power source*, as claimed in claim 12. Similarly, *Suzuki* does not teach sending a flag to a management unit, as claimed in claim 13. The examiner's assertions to the contrary are manifestly incorrect in the light of the facts presented and the plain meaning of *Suzuki*'s text. Consequently, it is respectfully urged that the rejection of claims 11-15 and 20-22 have been overcome.

Furthermore, *Suzuki* does not teach, suggest, or give any incentive to make the needed changes to reach the presently claimed invention. Absent the examiner pointing out some teaching or incentive to implement *Suzuki* and a priority ranking for power output, one of ordinary skill in the art would not be led to modify *Suzuki* to reach the present invention when the reference is examined as a whole. Absent some teaching, suggestion, or incentive to modify *Suzuki* in this manner, the presently claimed invention can be reached only through an improper use of hindsight using Applicants' disclosure as a template to make the necessary changes to reach the claimed invention.

IV. <u>35 U.S.C. § 102, Asserted Anticipation of Claims 11, 16-19, and 23-25</u>

The examiner rejected claims 11, 16-19, and 23-25 under 35 U.S.C. § 102 as anticipated by *Al-Salameh* et al., <u>Shared Optical Protection Ring Architecture</u>, U.S. Patent 6,721,502 (April 13, 2004) (hereinafter "*Al-Salameh*"). This rejection is respectfully traversed.

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). All limitations of the claimed invention must be considered when determining patentability. *In re Lowry*, 32 F.3d 1579, 1582, 32 U.S.P.Q.2d 1031, 1034 (Fed. Cir. 1994). Anticipation focuses on whether a claim reads on the product or process a prior art reference discloses, not on what the reference broadly teaches. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 U.S.P.Q. 781 (Fed. Cir. 1983). In this case each and every feature of the presently claimed invention is not identically shown in the cited reference, arranged as they are in the claims.

Claim 11 as amended is as follows:

> 11. A method for distributing optical power to a plurality of optical data devices, the method comprising the steps of:
> retrieving a priority signal, said priority signal associated with a priority ranking for said plurality of optical data devices;
> determining if said priority signal indicates a change in said priority ranking for said plurality of optical data devices; and
> responsive to a determination that the priority signal indicates the change in the priority ranking for the plurality of optical data devices, redistributing said optical power to said plurality of optical data devices.

Al-Salameh does not anticipate claim 11 because *Al-Salameh* does not teach the feature of retrieving a priority signal, where the priority signal is associated with a priority ranking for the plurality of optical data devices. In addition, *Al-Salameh* does not teach the feature of determining if the priority signal indicates a change in the priority ranking for the plurality of optical data devices. Finally, *Al-Salameh* does not teach the feature ofredistributing the optical power to the plurality of optical data devices, responsive to a determination that the priority signal indicates the change in the priority ranking for the plurality of optical data devices.

The examiner asserts otherwise, as provided below:

> *Al-Salameh* discloses an optical device with all the limitations set forth in the claims, including: a method for distribution optical power to a plurality of optical data devices (i.e. "optical nodes" Fig. 1; abstract), the method comprising the steps of: retrieving a priority signal, said priority signal associated with a priority ranking for the plurality of optical data devices, determining if the priority signal indicates a change in the priority ranking for the plurality of optical data devices; wherein such steps comprising retrieving a plurality of optical power monitor signals (Figs. 2-3; column 3 line 19 – column 4 line 10), said plurality of optical power monitor signals associated with a plurality of power levels of a plurality of power sources (column 5 lines 24-50); determining if said plurality of optical power output monitor signals indicates a defect in at least one optical power source of said plurality of optical power sources; and redistributing optical power to said plurality of optical data devices (column 5 lines 24-50); determining is said plurality of power monitoring signals indicate difference in power coupling ratio and redistributing optical power to compensate for difference in power coupling ration (column 5 lines 24-50);

Office Action of June 23, 2005, pp. 7-8.

However, the examiner's characterization of *Al-Salameh* is incorrect. *Al-Salameh* does not teach or suggest any of the features of claim 11 as the examiner asserts. For example, the

examiner asserts that the following portion of *Al-Salameh* teaches the retrieving, determining, and redistributing steps as claimed:

> A simplified block diagram of an optical node, e.g., node 200-i, is shown in FIG. 2. Note that the following description of node 200-i equally pertains to each of the other nodes forming system 100. In particular, and as shown in FIG. 1, active bi-directional service capacity is transported on optical transmission media 110 and standby protection capacity is transported on optical transmission media 120. The optical service signal and optical protection signal received from the West (W), .lambda..sub.RSW and .lambda..sub.RPW, are respectively amplified at conventional optical amplifiers OA 10-1 and 10-4. The amplified results are then supplied to respective demultiplexers 20-1 and 20-2, each of which may be, for example, a Dragone router. Demultiplexer 20-1 demultiplexes the amplified optical signal .lambda..sub.RSW and supplies the component signals (channels) .lambda..sub.RSW1 through .lambda..sub.RSWn forming the received signal .lambda..sub.RSW to respective optical protection modules 40-1 through 40-n. Demultiplexer 20-2 performs a similar operation on the received .lambda..sub.RPW and also supplies the demultiplexed corresponding component channels, .lambda..sub.RPW1 through .lambda..sub.RPWn, to respective optical protection modules 40-1 through 40-n. The component service channels .lambda..sub.TSW1 through .lambda..sub.TSWn that are to be transmitted in the West, W, direction are outputted by optical protection modules 40-1 through 40-n, respectively, and supplied to respective inputs of conventional multiplexer 30-1, which may be, for example, a Dragone router. Multiplexer 30-1 multiplexes the signals that it receives at its inputs to an output connected to conventional optical amplifier 10-3, which amplifies the multiplexed signals and outputs the result as signal .lambda..sub.TSW. Multiplexer 30-2 and OA 10-3 operate similarly with respect to the protection channels outputted as .lambda..sub.TPW.
>
> The above operations are similarly applied to signals .lambda..sub.TSE, .lambda..sub.TSE, .lambda..sub.TPE and .lambda..sub.TPE, which are demultiplexed and respectively supplied to optical protection modules 40-1 through 40-n, in the manner shown in FIG. 2. If a service channel suffers one of a number of different problems, e.g., the optical signal carried in the channel is degraded in some way, then the optical protection module 40-i receiving the faulty signal will detect the problem and deactivate the channel, placing it in a standby mode. The protection module also invokes a protection scheme selected previously by the respective client/customer. For example, if protection module 40-1 detects a problem with the optical signal carried in channel .lambda..sub.S1, then protection module 40-1 effects one of a plurality of different protection schemes to deal with the problem. Protection module 40-1 may simply place that channel in an out-of-service state, activate the corresponding protection channel

> .lambda..sub.P1 and transfer the customer's traffic received over one of the multiple paths 50-1 to the protection channel. As a feature of the inventive system, if the protection channel is being used to transport so-called pre-emptory traffic, then the protection module 40-1 sheds the pre-emptory traffic replacing it with the higher priority service traffic that was being transported via the failed service channel. As another feature of the inventive system, a simple switching fabric is employed to effect switching traffic between a service channel and the corresponding protection channel for one or more clients/customers, as will be discussed below in detail.

Al-Salameh, col. 3, l. 19 through col. 4, l. 10.

The above-quoted portion of *Al-Salameh* teaches optical communication using optical transmission data. In particular, *Al-Salameh* implements various forms of data protection to counter various forms of data transmission impairment, ranging from fiber breaks to signal impairments characterized by degradation in SNR and BER due to degradation of insufficient power budgets. Insufficient power budgets can be caused by insufficient gain, increase in span loss, lack of sufficient dispersion compensation, too much aggregate traffic in the transmission path, and other sources. All of these defects are associated with characteristics of data transmission. Loss of data can be prevented by transmitting the data over multiple channels, transmitting along separate paths. In the event of channel impairment along a given path, *Al-Salameh* can switch to another transmission path connecting the same device at a different location.

Thus, if a service channel suffers one of a number of different problems; for example, if the optical signal carried in the channel is degraded in some way, then the optical protection module receiving the faulty signal will detect the problem and deactivate the channel, placing it in a standby mode. If the protection channel is being used to transport preemptory traffic, then the protection module sheds the preemptory traffic, replacing it with the higher priority service traffic that was being transported via the failed service channel.

However, changing preemptory traffic has nothing to do with a priority ranking for optical power provided to a plurality of optical data devices as claimed. This section of *Al-Salameh* does not teach retrieving a *priority signal* where the priority signal is *associated with a priority ranking* for the plurality of optical data devices, as claimed. This section of *Al-Salameh* does not teach determining if the plurality signal *indicates a change in the priority ranking*, as claimed. This section of *Al-Salameh* does not teach *redistributing* optical power to the plurality

of optical devices *responsive to a determination that the priority signal indicates the change in the priority ranking*, as claimed. The disclosure simply does not exist in *Al-Salameh*.

Nevertheless, the examiner also cites figures 2 and 3 of *Al-Salameh* for the proposition that *Al-Salameh* teaches the claimed steps. Figure 2 of *Al-Salameh* is as follows:

FIG. 2

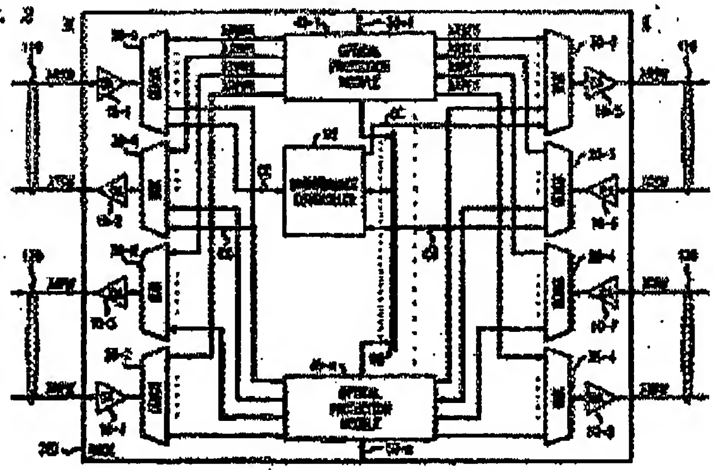

Figure 2 shows an optical node for transmitting data in the manner described in the above-quoted text. Nothing in this figure contradicts the above-quoted text and nothing in this figure shows a priority ranking for optical data devices in the manner claimed. The optical protection module does not retrieve a priority signal associated with a priority ranking for the optical node, and thus cannot show the first claimed feature of claim 11. Similarly, a determination is not made as to whether a *change in the priority ranking* has occurred, as also claimed in claim 11. Thus, nothing in figure 2 teaches the steps of claim 11.

Nevertheless, the examiner also refers to figure 3 of *Al-Salameh* for the proposition that *Al-Salameh* teaches the claimed steps. Figure 3 of *Al-Salameh* is as follows:

FIG. 3

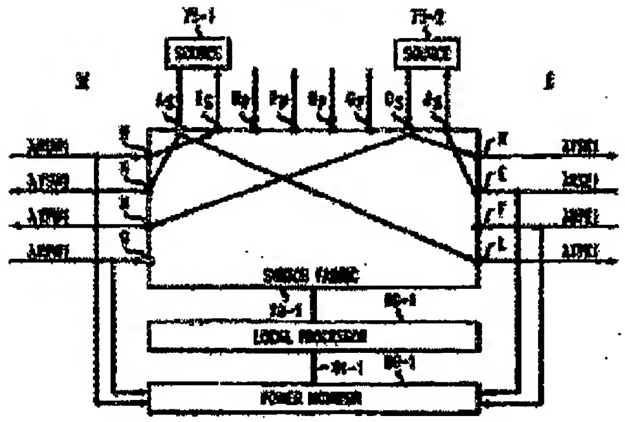

Figure 3 of *Al-Salameh* shows an optical protection module, as described below:

> For example, FIG. 3 shows a simplified block diagram of an illustrative embodiment of an optical protection module, e.g., module 40-i, operating in what we call a two service channel sources, path diverse 1+1 span protection East and West ready state (also referred to herein as a "keep alive" state), all in accordance with an aspect of the invention. As will be discussed below, the "keep alive" state (defined as, state 17 in FIG. 4A) is one of a plurality, e.g., 28, of different transmission and protection states that a protection module 40-i effects. The keep-alive state is a state in which service traffic is sent over the respective service channel and sent in the opposite direction over a protection channel/path to "keep" the equipment disposed along the protection path "alive". We do this so that the protection channel may be quickly placed into service without having to wait for the equipment that supports the protection channel to "boot up" whenever the corresponding service channel becomes faulty. In this way the connections defined by state 17 also achieve transmission path diversity.

Al-Salameh, col. 4, ll. 31-49.

The cited portion of *Al-Salameh* describes the optical protection module. The optical protection module operates in a two service channel source state, which is one of twenty-eight possible states. The "keep alive" state allows service traffic to be sent in different directions over a protection channel to keep the equipment path "alive." Thus, the protection channel can be placed into service without having to wait for the equipment that supports the channel to boot, thereby achieving transmission path diversity. However, *Al-Salameh* does not teach a plurality of

power levels a plurality of power sources, as asserted by the examiner. The cited section and figure 3 also do not teach retrieving a priority signal associated with a priority ranking for the optical node, and thus cannot show the first claimed feature of claim 11. Similarly, a determination is not made as to whether a *change in the priority ranking* has occurred, as also claimed in claim 11. Thus, nothing in figure 3 teaches the steps of claim 11.

The examiner also asserts that *Al-Salameh* teaches redistributing optical power to the plurality of optical data devices in response to determining if the priority signal indicates a change in the priority ranking for the plurality of optical data devices, as claimed. To support the assertion, the examiner refers to the following text in *Al-Salameh*:

> Continuing with FIG. 3, conventional power monitor 80-1 receives a small portion of each of the received signals, .lambda..sub.RSW1, .lambda..sub.RPW1, .lambda..sub.RSE1, and .lambda..sub.RPE1, and is programmed in a conventional manner to perform a number of tests on each such signal to determine if a loss of signal (LOS) has occurred. Such programming declares a LOS for an incoming signal if it meets predetermined criteria (error conditions), including (a) the power level of the incoming signal is below a predetermined threshold; (b) the incoming signal remains at a particular level, e.g., a logical one logical or logical zero, for a predetermined amount of time, e.g., greater than 3.2 seconds; (c) the error rate for the incoming signal exceeds a predetermined error rate; or (d) the signal-to-noise ratio for the incoming signal exceeds a predetermined signal-to-noise ratio. If one of the error conditions occurs, then power monitor 80-1 declares a LOS for the corresponding received signal and notifies local processor 90-1 of the LOS condition and identifies the failed signal, .lambda..sub.TPW1, .lambda..sub.RPW1, .lambda..sub.RSE1, or .lambda..sub.RPE1, as the case may be. Local processor 90-1 responds to the notification by invoking one of the protection states defined in FIGS. 4A and 4B depending on the number of sources that the module is serving. For example, assume that power monitor 80-1 declares a LOS for signal .lambda..sub.RSE1 received from the East direction, and notifies local processor 90-1 of the failure via bus 81-1. Also assume that protection module 40-i is serving only one source/client.

Al-Salameh, col. 5, ll. 24-50.

In the cited text, *Al-Salameh* teaches using a power monitor to perform tests on received signals to determine if a loss of signal has occurred, such as if the power level of the *incoming signal* is below a predetermined threshold, or other factors irrelevant to the invention of claim 11.

In response, a protection module can invoke one of the many protection states described in figure 4A and figure 4B in *Al-Salameh*.

However, the cited text does not teach or suggest redistributing optical power to the plurality of optical data devices in response to determining if the priority signal *indicates a change in the priority ranking*, as claimed in claim 11. Although *Al-Salameh* teaches monitoring power, *Al-Salameh* teach monitoring power of the incoming signal, not distributing power to optical devices in response to determining if a change in the priority ranking has occurred. Assuming, arguendo, that *Al-Salameh* teaches that the test states are priority rankings, then the priority rankings do not ever change. Thus, *Al-Salameh* does not teach the claimed redistributing step, as asserted by the examiner. Similarly, nothing in *Al-Salameh* teaches any of the claimed features in claim 11.

Because claims 16-19 and 23-25 depend from claim 11, the same distinctions between *Al-Salameh* and claim 11 can be made for these claims. Additionally, claims 16-19 and 23-25 claim other additional combinations of features not suggested by the reference. For example, *Al-Salameh* does not teach redistributing optical power to the plurality of optical data devices responsive to a determination that the plurality of optical power output monitor signals indicates a defect associated with an optical power distribution, as claimed in claim 16. *Al-Salameh* does not teach sending a flag to a management unit as claimed in claim 17. *Al-Salameh* does not teach calculating a second power coupling ration associated with the distribution of the optical power to the plurality of optical devices, as claimed in claim 19. Similarly, *Al-Salameh* does not teach performing this step in response to a determination that the plurality of power monitor signals indicates a difference in a first power coupling as claimed in claim 19. *Al-Salameh* does not teach a plurality of power coupling ratios, as claimed in claim 25. The examiner's assertions to the contrary are incorrect, at least for the reasons presented above. Consequently, it is respectfully urged that the rejection of claims 11, 16-19, and 23-25 have been overcome.

Furthermore, *Al-Salameh* does not teach, suggest, or give any incentive to make the needed changes to reach the presently claimed invention. Absent the examiner pointing out some teaching or incentive to implement *Al-Salameh* and the priority ranking as claimed, one of ordinary skill in the art would not be led to modify *Al-Salameh* to reach the present invention when the reference is examined as a whole. Absent some teaching, suggestion, or incentive to modify *Al-Salameh* in this manner, the presently claimed invention can be reached only through

an improper use of hindsight using Applicants' disclosure as a template to make the necessary changes to reach the claimed invention.

V. Conclusion

It is respectfully urged that the subject application is patentable over [REFERENCE] and is now in condition for allowance.

The examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

DATE: December 22, 2005

Respectfully submitted,

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